

PATENT  
 Attorney Docket No. 101.0112-01000  
 Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:  
 Gary K. Michelson, M.D.  
 Serial No.: 10/809,242  
 Filed: March 25, 2004  
 For: INSTRUMENTATION FOR USE WITH  
 DYNAMIC SINGLE-LOCK ANTERIOR  
 CERVICAL PLATE SYSTEM HAVING  
 NON-DETACHABLY FASTENED AND  
 MOVEABLE SEGMENTS

Confirmation No.: 6717

DEC 06 2006

Group Art Unit: 3733  
 Examiner: Pedro Philogene

Mail Stop Amendment  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

**TERMINAL DISCLAIMER**

Petitioner ("Assignee") Warsaw Orthopedic, Inc., duly organized under the laws of the State of Indiana, and having its principal place of business at 2500 Silveus Crossing, Warsaw, Indiana 46581, represents that it is the only assignee of the entire right, title and interest in and to the above-identified application Serial No. 10/809,242, filed March 25, 2004 for INSTRUMENTATION FOR USE WITH DYNAMIC SINGLE-LOCK ANTERIOR CERVICAL PLATE SYSTEM HAVING NON-DETACHABLY FASTENED AND MOVEABLE SEGMENTS in the name of Gary K. Michelson, as indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 018480, Frame 0277, and is the only assignee of the entire right, title and interest in and to application Serial No. 10/160,059, filed June 4, 2002 (now U.S. Patent No. 7,118,573) for DYNAMIC ANTERIOR CERVICAL PLATE SYSTEM HAVING MOVEABLE SEGMENTS, INSTRUMENTATION, AND METHOD FOR INSTALLATION THEREOF in the name of Gary K. Michelson, as indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 018471, Frame 0824. Assignee Warsaw Orthopedic, Inc. further represents through its representative that to the best of assignee's knowledge and belief, title to the above-identified application and the United States Patent No. 7,118,573 are in assignee, which is submitting this Terminal Disclaimer.

To obviate a double patenting rejection, Warsaw Orthopedic, Inc. hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the

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above-identified application, Serial No. 10/809,242, which would extend beyond the expiration date of Patent No. 7,118,573 and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent No. 7,118,573, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of Patent No. 7,118,573, as presently shortened by any terminal disclaimer, in the event that Patent No. 7,118,573: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is to be charged to Deposit Account No. 50-3726. If there are any additional fees due in connection with the filing of this document, please charge the fees to our Deposit Account No. 50-3726. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of assignee Warsaw Orthopedic, Inc.

Respectfully submitted,

MARTIN & FERRARO, LLP

By: 

Amedeo F. Ferraro  
Registration No. 37,129

Dated: December 6, 2006

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